



State of Wisconsin
1997 - 1998 LEGISLATURE

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**ASSEMBLY AMENDMENT 4,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 733**

March 24, 1998 – Offered by Representatives GRONEMUS, HUBER, BAUMGART,
GOETSCH and OTT.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 11: after that line insert:

3 “**SECTION 1L.** 174.02 (1) (a) of the statutes is amended to read:

4 174.02 (1) (a) *Without notice.* Subject to s. 895.045 and except as provided in
5 s. 895.57 (4), the owner of a dog is liable for the full amount of damages caused by
6 the dog injuring or causing injury to a person, domestic animal or property.

7 **SECTION 1m.** 174.02 (1) (b) of the statutes is amended to read:

8 174.02 (1) (b) *After notice.* Subject to s. 895.045 and except as provided in s.
9 895.57 (4), the owner of a dog is liable for 2 times the full amount of damages caused
10 by the dog injuring or causing injury to a person, domestic animal or property if the
11 owner was notified or knew that the dog previously injured or caused injury to a
12 person, domestic animal or property.”

1 **2.** Page 2, line 16: delete lines 16 to 18 and substitute:

2 “895.57 (4) (a) In this subsection, “security device” includes any of the
3 following:

4 1. Any fence enumerated under s. 90.02.

5 2. A theft alarm signal device, a burglar alarm or any other security alarm
6 system or device.

7 3. A dog.

8 (b) Subject to par. (c), an owner or custodian of a confined animal is immune
9 from civil liability for any damages to a person if all of the following apply:

10 1. The person suffers the damages while violating or attempting to violate s.
11 943.75 (2m).

12 2. The damages are caused by a security device that is installed or used by the
13 owner or custodian and that the owner or custodian reasonably believes is necessary
14 to protect the confined animal or the premises containing the animal. For purposes
15 of this subdivision, it is not reasonable to install or use a security device that is
16 intended or likely to cause death or great bodily harm, as defined in s. 939.22 (14),
17 for the purpose of protecting a confined animal or the premises containing a confined
18 animal.

19 (c) If an owner or custodian of a confined animal uses a dog as a security device,
20 the owner or custodian is entitled to immunity under par. (b) only if the dog is on the
21 owner’s or custodian’s property at the time that it causes the damages.”.

22 **3.** Page 2, line 23: delete the material beginning with that line and ending with
23 page 3, line 14, and substitute:

24 “**SECTION 9j.** 943.75 (2) of the statutes is amended to read:

1 943.75 (2) Whoever intentionally releases an animal that is lawfully confined
2 for ~~scientific, farming,~~ companionship or protection of persons or property,
3 recreation, ~~restocking, research,~~ exhibition, ~~commercial~~ or educational purposes,
4 acting without the consent of the owner or custodian of the animal, is guilty of a Class
5 C misdemeanor. A 2nd violation of this section by a person is a Class A misdemeanor.
6 A 3rd or subsequent violation of this section by a person is a Class E felony.

7 **SECTION 9k.** 943.75 (2m) of the statutes is created to read:

8 943.75 (2m) Whoever intentionally releases an animal that is lawfully
9 confined for scientific, farming, restocking, research or commercial purposes, acting
10 without the consent of the owner or custodian of the animal, is guilty of a Class C
11 felony.

12 **SECTION 9L.** 943.75 (3) of the statutes, as affected by 1997 Wisconsin Act 27,
13 is amended to read:

14 943.75 (3) ~~Subsection~~ Subsections (2) ~~does~~ and (2m) do not apply to any
15 humane officer, local health officer, peace officer, employe of the department of
16 natural resources while on any land licensed under s. 29.573, 29.574, 29.575 or
17 29.578 or designated as a wildlife refuge under s. 29.57 (1) or employe of the
18 department of agriculture, trade and consumer protection if the officer's or employe's
19 acts are in good faith and in an apparently authorized and reasonable fulfillment of
20 his or her duties. This subsection does not limit any other person from claiming the
21 defense of privilege under s. 939.45 (3).

22 **SECTION 9m.** 943.75 (4) of the statutes is amended to read:

23 943.75 (4) When the existence of an exception under sub. (3) has been placed
24 in issue by the trial evidence, the state must prove beyond a reasonable doubt that

1 the facts constituting the exception do not exist in order to sustain a finding of guilt
2 under sub. (2) or (2m).”.

3 **4.** Page 4, line 10: after “(2)” insert “or (2m)”.

4 **5.** Page 4, line 20: after “(2)” insert “or (2m)”.

5 **6.** Page 5, line 9: after that line insert:

6 **“SECTION 17m. Initial applicability.**

7 (1f) UNAUTHORIZED RELEASE OF ANIMALS; CRIMINAL PENALTIES. The treatment of
8 section 943.75 (2) and (2m) of the statutes first applies to offenses committed on the
9 effective date of this subsection.”.

10 **(END)**